UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/698,327 | 10/31/2003 | Edward Alan Clark | LUC-427/Clark 9 | 9809 |

32205        7590        08/21/2008
PATTI, HEWITT & AREZINA LLC
ONE NORTH LASALLE STREET
44TH FLOOR
CHICAGO, IL 60602

| EXAMINER |
|---|
| NGUYEN, QUYNH H |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2614 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 08/21/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on _20 May 2008_.
2a)☒ This action is **FINAL**.                    2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) _1-20_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-14 and 17-20_ is/are rejected.
7)☒ Claim(s) _15-16_ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

# DETAILED ACTION

## *Claim Rejections - 35 USC § 101*

1.      35 U.S.C. 101 reads as follows:

>  Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful
>  improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

        Claim 20 is rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter.  Claim 20 recites "A computer-readable

medium having computer executable instructions for performing steps".  While

Applicant' specification page 20 stated a recordable data storage medium such as one

or more electrical, biological, and atomic data storage medium.  Therefore, since the

claimed recordable data storage medium are not tangibly embodied in a physical

medium and encoded on a computer-readable medium then the Applicants has not

complied with 35 U.S.C 101.

## *Claim Rejections - 35 USC § 103*

2.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

>  (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
>  section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
>  such that the subject matter as a whole would have been obvious at the time the invention was made to a person
>  having ordinary skill in the art to which said subject matter pertains.  Patentability shall not be negatived by the
>  manner in which the invention was made.

3.      Claims 1-14 and 17-20 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Benedyk et al. 2005/0033684) in view of Shires (U.S. Patent

6,792,102).

As to claim 1, Benedyk et al. teaches a network (Fig. 1) comprising: An

intermediate application server component (Fig. 1, 108) that provides one or more

services (page 1, [0005]) to one or more telephony devices (Fig. 1, 106) on a call

through employment of one or more data streams associated with the call (Fig. 1, 104;

page 2, [0016] - [0019]); one or more user-related application server components

coupled to the intermediate application server component to establish the one or more

data streams (page 2, [0016] - [0017]).

Benedyk does not teach a conference bridge component coupled to the

intermediate application server component.

Shires teaches a conference bridge component (Fig. 10, 1060) coupled to the

intermediate application server component Fig. 1; (col. 4, lines 13-15).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to incorporate the teachings of Shires into the teachings of

Benedyk for the purpose of having a more efficient system and bridging telephone call

between agents and caller in call center with call back capability.

As to claim 2, Benedyk et al. teaches the network of claim 1, wherein the

intermediate application server component provides the one or more services to the one

or more user-related application server components through employment of the one or

more data streams (page 2, [0017] - [0018]).

As to claim 3, Benedyk et al. teaches the network of claim 2, wherein the one or more user-related application server components cooperate with the one or more telephony devices to establish one or more web portals (page 2, [0017] - [0018] - *Internet is a web portal*) that are employable by the intermediate application server (Fig. 1, 108) and the one or more user-related application server components to provide the one or more services to the one or more telephony devices (page 2, [0017] - [0018], [0037] - [0039]).

As to claims 4, 14 and 18, Benedyk et al. teaches the network of claim 3, wherein the intermediate application server component and the one or more user-related application server components provide one or more interfaces associated with the one or more services to the one or more telephony devices through employment of the one or more web portals for employment by the one or more telephony devices in interaction with the one or more services (page 2, [0017] - [0018]).

As to claim 5, Benedyk et al. teaches the network of claim 4, wherein the intermediate application server component cooperates with the one or more telephony devices to establish the call; wherein the intermediate application server component alters the call based on the interaction with the one or more services (page 2, [0018] - [0019]).

As to claims 6 and 19, Benedyk et al. teaches the network of claim 4,  wherein the intermediate application server component alters one or more of the one or more interfaces based on the employment of the one or more services (page 2, [0018] - [0019]); wherein the intermediate application server component and the one or more

user-related application server components cooperate to update the one or more of the

one or more interfaces through employment of the one or more data streams (page 2,

[0019] - [0020]).

Claims 7 and 8 are rejected for the same reasons as discussed above with

respect to claims 4 and 6.  Furthermore, Benedyk et al. teaches a first telephony device

(Fig. 1, 106) and a second telephony device (Fig. 2, 102).

As to claim 9, Benedyk et al. teaches the network of claim 4, wherein the

intermediate application server component and the one or more user-related application

server components provide the one or more graphical user interfaces that are

employable by the one or more telephony devices (page 4, [0033] - *the purchase price*

*and the store/sales displayed to the subscriber on a display screen associated with PoS*

*device 125*).

As to claim 10, Benedyk et al. teaches the network of claim 9, wherein the

intermediate application server component employ the extended Markup Language

interfaces (page 5, [0039]) to provide the one or more graphical user interfaces.

As to claim 11, Benedyk et al. teaches the network of claim 3, wherein the

intermediate application server component and the one or more user-related application

server component employ the HTTP to provide the one or more web portals to the one

or more telephony devices (page5, [0039]).

As to claim 12, Benedyk et al. teaches the network of claim 1 further comprising:

an intermediate switch component (102, 104); wherein the intermediate switch

component and the one or more telephony devices cooperate to establish the call (page

4, [0035]); wherein the intermediate switch component communicates with the

intermediate application server component to establish the one or more data streams

associated with the call (page 5, [0039]).

As to claim 13, Benedyk et al. teaches the network of claim 12, wherein the

intermediate application server component associates the one or more services with the

cal and communicates with the intermediate switch component to update the one or

more voice portions of the call based on the one or more services ([0036] - [0037]).

As to claim 17, Benedyk et al. teaches a method comprising: providing, by one or

more portions of an intermediate network, one or more services (page 1, [0005]) to one

or more telephony devices (Fig. 1, 106) on a call through employment of one or more

data streams associated with the call (Fig. 1, 104; page 2, [0016] - [0019]; page 4,

[0035]).

Benedyk does not teach a conference bridge component coupled to the

intermediate application server component.

Shires teaches a conference bridge component (Fig. 10, 1060) coupled to the

intermediate application server component Fig. 1; (col. 4, lines 13-15).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to incorporate the teachings of Shires into the teachings of

Benedyk for the purpose of having a more efficient system and bridging telephone call

between agents and caller in call center with call back capability.

As to claim 20, Benedyk et al. teaches a computer readable medium having

computer executable instructions for performing steps comprising: means in the one or

more media for providing, by one or more portions of an intermediate network, one or

more services (page 1, [0005]) to one or more telephony devices (Fig. 1, 106) on a call

through employment of one or more data streams associated with the call (Fig. 1, 104;

page 2, [0016] - [0019]; pages 4 and 5, [0035] - [0037]).

Benedyk does not teach a conference bridge component coupled to the

intermediate application server component.

Shires teaches a conference bridge component (Fig. 10, 1060) coupled to the

intermediate application server component Fig. 1; (col. 4, lines 13-15).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to incorporate the teachings of Shires into the teachings of

Benedyk for the purpose of having a more efficient system and bridging telephone call

between agents and caller in call center with call back capability.


## *Allowable Subject Matter*

4.      Claims 15 and 16 are objected to as being dependent upon a rejected base

claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims.

As to claims 15 and 16, prior of records fail to teach, or render obvious, alone or

in combination, an apparatus / method comprising the claimed means and their

components, relationships, and functionalities as specifically recited in claims 15 and 16

and claims that they depend on.

## *Response to Arguments*

5.      Applicant's arguments with respect to claims 1-20 have been considered but are

moot in view of the new ground(s) of rejection.  Applicant's arguments are addressed in

the above claims rejection.


## *Conclusion*

6.      Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action.  Accordingly, **THIS ACTION IS MADE FINAL**.  See MPEP

§ 706.07(a).  Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action.  In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action.  In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.


7.      Any inquiry concerning this communication or earlier communications from the

examiner should be directed to QUYNH H. NGUYEN whose telephone number is 571-

272-7489.  The examiner can normally be reached on Monday - Thursday from 6:30

A.M. to 5:00 P.M.  If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Ahmad Matar, can be reached on 571-272-7488.  The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system.  Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov.  Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).


/Quynh H Nguyen/

Primary Examiner, Art Unit 2614